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Dyg Hjh Salwa bt Hj Mohd Tahir & Ors v Jinoo Tukang Gunting Istimewa c/o Mohammed Ali bin Manzoorahmad

HIGH COURT (BRUNEI DARUSSALAM) — ORIGINATING SUMMONS NO 21 OF 2010
KIFRAWI CHIEF JUSTICE
19 AUGUST 2010

Land Law — Occupation — Defendant in occupation — Recovery of land — Position of defendant on land — Whether occupying as a licensee with consent — Right of defendants to continue remaining on portion of land — Whether court could create proprietary interest in land tenure arising from a license within family relationship — Whether plaintiffs' legal or equitable rights on property established — Whether plaintiffs entitled to mesne profits and vacant possession

The plaintiffs applied to this court, inter alia, for an order that the they be granted vacant possession of the immovable property, a shophouse, held under Serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait. The said property was sold to the plaintiff on 18 September 2009 by Pehin Hurairah, the administrator (vendor), at a purchase price of $350,000. The defendant however, raised several objections to the plaintiffs' application. The defendant contended, inter alia, that there was special condition imposed on the said land namely, that: 'no sale, mortgage, transfer or sublease be permitted for the period of 10 years without Government's approval.' The defendant alleged that the land could not be sold, mortgaged, transferred or sub-leased until 21 April 2009. It was therefore wrong for the probate officer to grant sanction/approval in November 2008 to sell and transfer the land. The defendant further alleged that his grandfather, Jinoo bin Jaafar, was occupying a portion of the said property from 26 August 1956 under the tenancy agreement between his grandfather and the Sharikat Tukang-Tukang Perak Melayu, Seria, Brunei ('Sharikat'). Thereafter, Manzoor Ahmad, the defendant's father, occupied the premises from 17 April 1958 until his death on 25 May 2003. The defendant then occupied the premises commencing 5 August 2003. The defendant thus contended the plaintiffs had no legal or equitable rights on the property. The court was faced with the issue whether the plaintiff had legal or equitable rights on the land and entitle to mesne profits and vacant possession and whether the defendant was lawfully entitled to occupy the said premises based on the fact that the defendant's grandfather had an alleged tenancy agreement to occupy a portion of the said property.

Held, allowing the application:

(1) Based on the tenancy agreement, Jinoo upon payment of the monthly

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amount payable would become a monthly tenant although, there was no expiry period. As a monthly tenant under the agreement, he had no right to sublet to his son Manzoor. From the circumstances of the case it can be inferred, however, that the Sharikat or registered owner of the shop allowed Manzoor to stay and occupy the shop. Manzoor would then become a mere licensee even if he paid a monthly fi and accepted by the Sharikat or registered owner of the shop. The defendant would also become a mere licensee when he occupied and upon payment of a monthly fi and when the registered owner of the shop accepted the payment. So when the land where the shop was situated was sold to the plaintiff by the administrator (vendor) at a purchase price of $350,000 the land would be transferred to the plaintiff free from all encumbrances. The defendant as licensee, should he want to make any claim for any alleged losses suffered by him, could only do so against the vendor administrator of the land or previous registered owner or any other persons other than the plaintiffs (see para 10).

(2) By virtue of the sale and purchase agreement between the vendor and the purchaser (the plaintiffs) and the deed of trust, the plaintiffs had become beneficial owners of the land. The plaintiffs had submitted the relevant documents at the land office and the matter was pending the receipt of approval by His Majesty the Sultan in Council. Since the plaintiffs had become beneficial owners of the land where the shop was situated, this court therefore make the order, inter alia, that the plaintiffs be granted the vacant possession of the said immovable property. Further, the defendant do pay the plaintiffs the sum of B$8,000 a month being mesne profits for the said property from 18 September 2009 to the date vacant possession was given to the plaintiffs (see paras 13–14, 14(a), (d)).

[Bahasa Malaysia summary

Plaintif-plaintif telah memohon ke mahkamah ini, antara lain, untuk perintah agar mereka diberikan milikan kosong ke atas hartanah tak alih, sebuah rumah kedai, yang dipegang di bawah No Siri 48, Lot No 47, Jalan Bunga Melor, Seria, Daerah Kuala Belait. Hartanah tersebut telah dijual kepada plaintif pada 18 September 2009 oleh Pehin Hurairah, pentadbir (penjual), pada harga belian $350,000. Defendan bagaimanapun, telah menimbulkan beberapa bantahan terhadap permohonan plaintif-plaintif. Defendan menegaskan, antara lain, bahawa terdapat syarat khas yang dikenakan ke atas tanah tersebut iaitu, bahawa: 'no sale, mortgage, transfer or sublease be permitted for the period of 10 years without Government's approval.' Defendan mengatakan bahawa tanah tersebut tidak boleh dijual, dicagar, dipindahmilik atau dipajak kecil hingga 21 April 2009. Adalah salah untuk pegawai probet memberikan sanksi/kelulusan pada bulan November 2008 untuk menjual dan memindahmilik tanah tersebut. Defendan selanjutnya mengatakan bahawa datuknya, Jinoo bin Jaafar, telah mendiami sebahagian hartanah tersebut dari

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26 Ogos 1956 di bawah perjanjian sewa antara datuknya dan Sharikat Tukang-Tukang Perak Melayu, Seria, Brunei ('Sharikat'). Selepas itu, Manzoor Ahmad, bapa defendan, telah mendiami premis itu dari 17 April 1958 sehingga dia meninggal dunia pada 25 Mei 2003. Defendan kemudian telah mendiami premis itu bermula dari 5 Ogos 2003. Defendan dengan itu menegaskan plaintif-plaintif tiada hak dari segi undang-undang atau ekuiti ke atas hartanah tersebut. Mahkamah berhadapan dengan isu sama ada plaintif mempunyai hak dari segi undang-undang atau ekuiti ke atas tanah tersebut dan berhak mendapat keuntungan mesne dan milikan kosong dan sama ada defendan berhak dari segi undang-undang mendiami premis tersebut berdasarkan fakta bahawa datuk defendan mempunyai perjanjian sewa yang dikatakan itu untuk mendiami sebahagian daripada hartanah tersebut.

Diputuskan, membenarkan permohonan:

(1) Berdasarkan perjanjian sewa, Jinoo setelah membayar jumlah bulanan yang perlu dibayar akan menjadi penyewa bulanan meskipun, tiada tempoh tamat. Sebagai penyewa bulanan di bawah perjanjian, dia tiada hak menyewa kecil kepada anaknya Manzoor. Berdasarkan keadaan kes inferens boleh dibuat, bagaimanapun, bahawa Sharikat atau pemilik berdaftar kedai itu telah membenarkan Manzoor untuk menetap dan mendiami kedai itu. Manzoor dengan itu hanyalah pemegang lesen jika dia membayar fi bulanan dan diterima oleh Sharikat atau pemilik berdaftar kedai itu. Defendan juga akan hanya menjadi pemegang lesen apabila dia mendiami dan setelah membayar fi bulanan dan apabila pemilik berdaftar kedai itu menerima bayaran tersebut. Oleh itu apabila tanah di mana terletaknya kedai itu dijual kepada plaintif oleh pentadbir (penjual) pada harga jualan $350,000 tanah tersebut dipindahmilik kepada plaintif bebas daripada semua sekatan. Defendan sebagai pemegang lesen, jika dia ingin membuat apa-apa tuntutan untuk apa-apa kerugian yang dikatakan telah dialami olehnya hanya boleh berbuat demikian terhadap penjual pentadbir tanah itu atau pemilik berdaftar sebelumnya atau sesiapa selain plaintif-plaintif (lihat perenggan 10).

(2) Menurut perjanjian jual beli antara penjual dan pembeli (plaintif-plaintif) dan surat ikatan amanah, plaintif-plaintif telah menjadi pemilik benefisiari tanah itu. Plaintif-plaintif telah mengemukakan dokumen-dokumen yang relevan di pejabat tanah dan perkara itu menunggu penerimaan kelulusan oleh Yang diPertuan Agong Sultan. Oleh kerana plaintif-plaintif telah menjadi pemilik-pemilik benefisiari tanah itu di mana terletaknya kedai itu, mahkamah ini telah membuat perintah, antara lain, agar plaintif-plaintif diberikan milikan kosong ke atas hartanah tak alih tersebut. Selanjutnya, defendan perlu membayar plaintif-plaintif jumlah B$8,000 sebulan sebagai keuntungan

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A mesne untuk hartanah tersebut dari 18 September 2009 hingga tarikh milikan kosong diberikan kepada plaintif-plaintif (lihat perenggan 13–14, 14(a), (d)).]

Notes

B For cases on occupation generally, see 8(2) *Mallal's Digest* (4th Ed, 2011 Reissue) paras 3882–3884.

Leney Andew Albert (Sankaran Halim) for the plaintiffs.
Respondent in person

C **Kifrawi Chief Justice:**

[1] The plaintiffs by way of originating summons dated 22 April 2010 D applied to this court for the following orders:

(a) that the plaintiffs herein be granted vacant possession of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait;

E (b) that the defendant named herein and/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do peacefully surrender vacant possession of the said property to the plaintiffs herein and/or their agents and/or their servants within seven days from the service of this order upon them;

F

(c) that in the event the defendant named herein an/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait shall refuse to peacefully surrender vacant possession of the said property to the plaintiffs herein G and/or their agents and/or their servants within seven days from the service of this order upon them, the sheriff of the Supreme Court of Brunei Darussalam be granted leave to use such reasonable force as may be deemed necessary to enter the said property and cause the plaintiffs herein and/or their agents and/or their servants to have possession of it;

H

(d) that the defendant named herein and/or the occupants of all that immoveable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do pay the plaintiffs the sum of B$8,000 a month being mesne profits for the said property from 18 I September 2009 to the date vacant possession is given to the plaintiffs;

(e) that the defendant named herein and/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District Of Kuala Belait do pay the plaintiffs damages as assessed by this honourable court;

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(f) that the defendant named herein and/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do pay the costs of this application and all other incidental costs arising thereby on a full indemnity basis; and

(g) such further of other relief which this honourable court may deem fit, fair and just.

THE DEFENDANT'S CASE

[2] Mohammed Ali bin Manzoor Ahmad, the defendant, filed an affidavit in reply dated 29 May 2010. He raised several objections to the plaintiffs' application:

(a) The special condition imposed on the land serial No 48, Lot No 47 Jalan Bunga Melor, Seria, District of Kuala Belait where the shophouse, subject matter of this action, was built states 'No sale, mortgage, transfer or sublease be permitted for the period of 10 years without Government's approval'. The defendant claimed that the land cannot be sold, mortgaged, transferred or sub-leased until 21 April 2009. It is therefore wrong for the probate officer to grant sanction/approval in November 2008 to sell and transfer the land.

(b) The land held under the lease is alienated subject to the rights of Brunei Shell Petroleum Co Ltd under the mining lease dated 21 February 1924.

(c) The defendant stated that his grandfather was occupying a portion of the said property from 26 August 1956 under the tenancy agreement between his grandfather Jinoo bin Jaafar and the Sharikat Tukang-Tukang Perak Melayu, Seria, Brunei. Thereafter the defendant's father Manzoor Ahmad bin Hj Jinoo occupied the premises commencing 17 April 1958 until his death on 25 May 2003. The defendant then occupied the premises commencing 5 August 2003. The defendant claimed that rents were wrongly collected from his family. The rent payable should be B$195 per month and further there is no provision for increase of rental and/or expiry date and/or termination of tenancy agreement. With all these uncertainties the defendant decided to wait and clarify the ownership disputes, the current rental payable before the defendant start paying. The defendant claimed the plaintiffs have no legal or equitable rights on the property. They have no right to request for rent and/or request for vacant possession and/or impose any conditions on the defendant.

[3] The defendant affirmed that he had suffered loss and damage because of the continued harassment by the plaintiffs' agent/relative/Hj Sanusi by locking

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A the said premises. The said premises was locked wrongly on four different dates that is on 11 May 2009, 2 September 2009, 20 November 2009 and finally on 12 March 2010. On 12 March 2010, the plaintiffs moved the defendant's business assets out of the said premises causing much hardship, loss and damage. The defendant believed that the plaintiffs' application should be B dismissed with costs.

THE PLAINTIFF'S CASE

C **[4]** Counsel for the plaintiffs submitted, inter alia:

2. The Affidavits filed in respect of these proceedings are as follows:

ii. Plaintiffs' Affidavit In Support by Dyg Hjh Salwa Bte Mohd Tahir affirmed on 19.04.2010;

D iiii. Defendant's Affidavit In Reply by Mohammed Ali Bin Manzoorahmad affirmed on 29.05.2010; and

iv. Plaintiffs' Affidavit In Reply by Dyg Hjh Salwa Bte Mohd Tahir affirmed on 20.07.2010.

E 3. My Lord, the crux of the Defendant's objection to the Plaintiffs' application herein can be summarized as follows:

(i) That based on the 'Syarat Khas Tanah' on the said title, the Administrator of the said property is precluded from selling the said property to the Plaintiffs;

F (ii) That based on the 'Syarat Khas Tanah' on the said title, the Court Order by the Probate Officer was wrongly granted;

(iii) That the Defendant is lawfully entitled to occupy the said premises based on the fact that the Defendant's grandfather had an alleged Tenancy Agreement dated 26.08.1956 to occupy a portion of the said property.

G 4. My Lord, allow me to address each of the issues raised by the Defendant and thereafter show the Court why each of the said issues has no basis to defeat the Plaintiffs' rights in respect of the said property.

H *First Issue: That based on the 'Syarat Khas Tanah' on the said title, the Administrator of the said property is precluded from selling the said property to the said Plaintiffs.*

5. My Lord, the 'Syarat Khas Tanah' endorsed on the title of the said property does contain a restriction which states as follows

I 'No sale, mortgage, transfer or sub-lease be permitted for a period of 10 years without the Government's approval'.

6. However, the said restriction is applicable only for a period often (10) years starting from the date the lease of 99 years was granted over the said land [from 06.08.1958] and not from 22.04.199$ as alleged by the Defendant.

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7. This fact was confirmed via a letter dated 17.07.2010 from the Land Administrator of the Brunei Land Office which is exhibited in Exhibit 'DHSHMT-13'

8. The said letter clearly states that the period of the restriction had expired on 05.08.1968 and as such, there is no impediment for the Administrator to sell the said land to the Plaintiffs.

Second Issue: That based on the 'Syarat Khas Tanah' on the said title, the Court Order by the Probate Officer was wrongly granted.

9. This issue raised by the Defendant is related to the first issue stated hereinabove.

10. Based on the fact that there is no impediment to the Administrator to sell the said land to the Plaintiffs for the reasons mentioned hereinabove, the Court Order granted by the Probate Officer sanctioning the said Pehin Orang Kaya Setia Jaya Dato Paduka Awang Haji Abu Hurairah Bin P.O.K. Di-Gadong Hj Mohd.Taha as the administrator of the estate of the said Pehin Laksamana Haji Mohamad Taha to sell the said property is lawful and binding and was rightfully granted.

Third Issue: That the Defendant is lawfully entitled to occupy the said premises based on the fact that the Defendant's grandfather had an alleged Tenancy Agreement dated 26.08.1956 to occupy a portion of the said property.

11. My Lord, the alleged Tenancy Agreement does not bind the Plaintiffs in any way as it concerns matters prior to the purchase of the said property by the Plaintiffs.

12. Further, the Defendant has no legal basis to claim any rights deriving from the alleged Tenancy Agreement as the said Agreement was executed by the Defendant's grandfather and does not bind his heirs and/or successors in title.

13. The alleged Tenancy Agreement is also bad in law for uncertainty as it does not have an expiration date.

14. As such, it is the Plaintiffs' submission that the alleged tenancy agreement and any rights arising therefrom [which is denied] does not in any way bar the Plaintiffs from enforcing their rights.

The Law

15. My Lord, pursuant to a Deed of Trust dated 17.09.2009 executed between the said Vendor as the Trustee and the Plaintiffs herein as the Beneficial Owners [exhibited as 'DHSHMT-4'], it was a term of the said Deed that said Vendor shall hold the said property in trust for the Plaintiffs pending the receipt of approval of the transfer of the said property to the Plaintiffs by His Majesty the Sultan in Council.

16. As such, by virtue of the provisions of the said Sale and Purchase Agreement and the said Deed of Trust, the Plaintiffs have become the beneficial owners of the said property with effect from the said completion date.

17. In this case, the Plaintiffs have fulfilled their obligations under the said Sale & Purchase Agreement and as such, they have every right over the said property.

18. The Administrator has rightfully obtained the sanction of the Probate Court for

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the sale of the said property to the Plaintiffs and as such, the Administrator is holding on to the said property as a trustee for the Plaintiffs pending the registration of the said transfer.

See case of *Itam Binti Saad vs Chik Binti Abdullah* [1974] 2 MLJ 53 [Tab 1 of the Plaintiffs' Bundle of Authorities]

19. What is required is for the Plaintiffs to clothe their equitable right with a legal title. Ahd this the Plaintiffs have done by submitting the relevant documents at the Land Office and the matter is pending the receipt of approval by His Majesty the Sultan In Council.

See case of *Munah vs Fatimah* [1968] 1 MLJ 54 [Tab 2 of the Plaintiffs' Bundle of Authorities]

Lysaght vs Edwards [1876] 2 Ch D 499 [Tab 3 of the Plaintiffs' Bundle of Authorities]

20. The Plaintiffs, having fulfilled their obligations under the Agreements, has acquired a right in rem and also a right in personam.

See case of *Kersah La 'Usin vs Sikin Menan* [1966] 2 MLJ 20 [Tab 4 of the Plaintiffs' Bundle of Authorities]

Bachan Singh vs Mahinder Kaur & Ors [1956] 22 MLJ 97 [Tab 5 of the Plaintiffs' Bundle of Authorities]

21. As such, the Plaintiffs have acquired an equitable title in the said property. The Administrator, as Vendor, had divested himself of all beneficial interest in the said land and vested it in the Plaintiffs.

See case of *Karuppiah Chettiar vs Subramaniam* [1971] 2 MLJ 116 [Tab 6 of the Plaintiffs' Bundle of Authorities]

DECISION

[5] The defendant was represented earlier by Mr Biji Kumar but on the day of the hearing of this originating summons on the 21 July 2010, Mr Biji Kumar discharged himself as the defendant's lawyer with the court's permission. He did not receive further instruction from the defendant. The defendant has been notified of the hearing and Mr Biji Kumar's intention to discharge himself from acting for the defendant. Mr Biji Kumar also undertook to give a copy of the plaintiffs' affidavit in reply affirmed on 20 July 2010 to the defendant.

[6] The letter from the senior land officer dated 17 July 2010 (exh DHSMT13) has confirmed that the restriction for ten years applicable to the land, the subject matter of this action, commenced from the date the lease of 99 years was granted which is from 6 August 1958. The senior land officer also mentioned in the same letter that although the lease was subject to the rights of

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Brunei Shell Petroleum Co Ltd, there was no requirement for a vendor/purchaser to obtain prior consent from Brunei Shell before the transfer of the land.

[7] This would dispose of the defendant's objection regarding the restriction imposed by the Syarikat Khas Tanah (special condition imposed on the land).

Whether the plaintiff has legal or equitable rights on the land and entitle to mesne profits and vacant possession?

[8] Counsel for the plaintiffs submitted that the tenancy agreement between the defendant's grandfather and the Sharikat Tukang-Tukang Perak Melayu Seria Brunei ('Sharikat') dated 26 August 1956 was void because the tenancy agreement has no expiry period. The terms of the agreement in the malay language, inter alia, were as follows:

(a) The grandfather Jinoo bin Jaafar ('Jinoo') had to pay $195 a month. Jinoo had to pay gas, water, and 'api' (electricity?).

(b) If Jinoo failed to pay the amount mentioned above, notice should be given to Jinoo. After one month notice had expired and the amount was still not paid then Jinoo would lose his right to stay in the shop.

(c) Jinoo had no right to sublet the shop to other person. Jinoo had the right to terminate the agreement by giving three months notice to Sharikat.

From the information given by the defendant's affidavit, it is undisputed that his father, Manzoor Ahmad bin Hj Jinoo ('Manzoor') occupied the said premises on 17 April 1958 until his death on 25 May 2003.

[9] Based on the agreement dated 26 August 1956, Jinoo upon payment of the monthly amount payable would become a monthly tenant although, there was no expiry period. As a monthly tenant under the agreement, he had no right to sublet to his son Manzoor. From the circumstances of the case it can be inferred, however, that the Sharikat or registered owner of the shop allowed Manzoor to stay and occupy the shop. Manzoor would then become a mere licensee even if he paid a monthly fees and accepted by the Sharikat or registered owner of the shop. There is no written agreement between Manzoor and the Sharikat or registered owner of the shop who according to the evidence was Pehin Laksamana Hj Mohammad Taha from 1958 until 31 August 2008. The defendant occupied the shop from 5 August 2003. The defendant claimed he had the right to occupy the shop by relying on the agreement between the Sharikat and Jinoo, his grandfather. Since there is no other written agreement between the defendant and the registered owner of the shop and from the circumstances of this case it can also be inferred that the defendant was also allowed fo stay and occupy the shop. The defendant would also become a mere

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licensee when he occupied and upon payment of a monthly fi and when the registered owner of the shop accepted the payment. So when the land where the shop is situated was sold to the plaintiffs on 18 September 2009 by Pehin Hurairah the administrator (vendor) at a purchase price of $350,000 the land would be transferred to the plaintiff free from all encumbrances. The defendant as licensee, should he want to make any claim for any alleged losses suffered by him, could only do so against the vendor administrator of the land, Pehin Hurairah, or previous registered owner Pehin Laksamana Hj Mohamad Taha or any other persons other than the plaintiffs.

[10] Alternatively if Manzoor and the defendant are not licensees they may be treated as monthly tenants because they were allowed to stay and occupy the shop and upon payment and acceptance of monthly rent by the parties respectively. The monthly tenancy could be terminated by both parties by giving one month notice. I note that the plaintiffs have issued letters dated 9 November 2069 (exh DHSHMT6), dated 21 December 2009 (exh DHSHMT8), dated 5 January 2010 and 11 March 2010 (exh DHSHMT10), and a letter dated 25 March 2010 (exh DHSHMT11), giving notice to the defendant to deliver possession of the shop.

[11] I also find those letters given to the defendant to be sufficient notice to the defendant of the plaintiffs' intention to terminate the monthly tenancy which the defendant may be entitled.

By virtue of the sale and purchase agreement between the vendor and the purchaser (the plaintiffs) and the deed of trust dated 17 September 2009 the plaintiffs have become beneficial owners of the land. The plaintiffs have submitted the relevant documents at the land office and the matter is pending the receipt of approval by His Majesty the Sultan in Council.

[12] Since the plaintiffs have become beneficial owners of the land where the shop is situated, I therefore make the following orders:

(a) that the plaintiffs herein be granted vacant possession of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait;

(b) that the defendant named herein and/or the occupants of ail that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do peacefully surrender vacant possession of the said property to the plaintiffs herein and/or their agents and/or their servants within seven days from the service of this order upon them;

(c) that in the event the defendant named herein and/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan

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Bunga Melor, Seria, District of Kuala Belait shall refuse to peacefully surrender vacant possession of the said property to the plaintiffs herein and/or their agents and/or their servants within seven days from the service of this order upon them, the sheriff of the Supreme Court of Brunei Darussalam be granted leave to use such reasonable force as may be deemed necessary to enter the said property and cause the plaintiffs herein and/or their agents and/or their servants to have possession of it;

(d) that the defendant named herein and/or the occupants of all that immoveable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do pay the plaintiffs the sum of B$8,000 a month being mesne profits for the said property from 18 September 2009 to the date vacant possession is given to the plaintiffs;

(e) that the defendant named herein and/or the occupants of all that immovable property held under serial No 48, Lot No 47, Jalan Bunga Melor, Seria, District of Kuala Belait do pay the plaintiffs damages as assessed by this honourable court; and

(f) I also order that the costs of this application to be paid by the defendant to the plaintiffs to be taxed if not agreed.

Application allowed.

Reported by Ashgar Ali Ali Mohamed